HUSBAND AND WIFE — COMMUNITY PROPERTY — RIGHT OF WIFE TO SUE FOR INJURIES WHEN HUSBAND REFUSES TO JOIN. — A statute gave the husband the sole power of managing and disposing of community property and made him a necessary party in suits concerning the community when the couple are living together and the action is against a third party. (1915 REM. & BAL. WASH. CODE, §§ 5917, 181.) The wife brought an action for injuries to herself sustained through the alleged negligence of the defendant and joined her husband as a party defendant because he refused to join her in the action. The defendant demurred on the ground of defect of parties plaintiff. *Held*, that the demurrer be sustained. *Hynes* v. *Colman Dock Co. et al.*, 185 Pac. 617 (Wash.).

At common law, both husband and wife were necessary parties plaintiff in such a suit. *Pennsylvania R. Co.* v. *Goodenough*, 55 N. J. L. 577, 28 Atl. 3; *Long* v. *Morrison*, 14 Ind. 595. The husband alone, however, could effectually release the action. *Beach* v. *Beach*, 2 Hill (N. Y.), 260. A refusal on his part to sue, therefore, would, it seems, bar recovery. Under the community system, such a right of action is clearly a part of the community, since it is property acquired during coverture by neither gift, devise, nor inheritance. *Ezell* v. *Dodson*, 60 Tex. 331; *Hawkins* v. *Front St. Ry. Co.*, 3 Wash. 592, 28 Pac. 1021. As the sole active agent of the community, the husband is the only necessary party plaintiff. *Hawkins* v. *Front St. Ry. Co.*, *supra; Tell* v. *Gibson*, 66 Cal. 247, 5 Pac. 223. Whether the wife is even a proper party is in dispute. *T. C. R. Co.* v. *Burnett*, 61 Tex. 638; *Warner* v. *Steamer Uncle Sam*, 9 Cal. 697. See BALLINGER, PROPERTY RIGHTS OF HUSBAND AND WIFE UNDER THE COMMUNITY SYSTEM, §§ 180 *et seq.* However, the wife may sue alone if the husband has permanently abandoned her. *Baldwin* v. *Second St., etc. Ry. Co.*, 77 Cal. 390, 19 Pac. 644. Also, she may recover community goods wrongfully and wastefully disposed of by the husband. *Marston* v. *Rue*, 92 Wash. 129, 159 Pac. 111. Similarly, an unreasonable refusal on his part to institute a suit required in the interest of the community should eliminate him as a necessary party. Since the parties are in effect joint obligees, the husband's refusal to sue should not necessarily bar recovery. *Harris* v. *Swanson & Bro.*, 62 Ala. 299; *Cunningham* v. *Carpenter*, 10 Ala. 109. But since his refusal to join in the suit may be legitimate, the wife should establish its unreasonableness to escape the general rule. Accordingly, as this was not shown, or even alleged, in the principal case, her suit necessarily failed. *Ezell* v. *Dodson*, *supra*.

INDICTMENT AND INFORMATION — SUFFICIENCY OF ACCUSATION — NECESSITY OF ALLEGATION OF SPECIFIC INSTANCES OF PRACTICING WITHOUT A LICENSE. — The defendant was indicted under a New York statute making it a misdemeanor to practice medicine without a license. (PUBLIC HEALTH LAWS, § 161.) The indictment alleged the crime in the language of the statute, but contained no allegations of specific acts or names of persons whom the accused had treated. The defendant's demurrer was overruled and he appealed from a judgment of conviction. *Held*, that the indictment was defective. *People* v. *Devinny*, 125 N. E. 543 (N. Y.).

An indictment charging a statutory offense in the very words of the statute is sufficient, unless the statute itself is too general or fails to define the necessary elements of the crime. *Ledbetter* v. *United States*, 170 U. S. 606; *State* v. *Munsey*, 114 Me. 408, 96 Atl. 729. Thus, if the crime is a continuous one, a general allegation in the words of the statute is enough. *Donovan* v. *State*, 170 Ind. 123, 83 N. E. 744; *Commonwealth* v. *Pray*, 30 Mass. 359. But where the crime may consist of a single unlawful act, as the sale of liquor without a license, some courts require the name of the buyer as a necessary particular. *Fletcher* v. *State*, 2 Okla. Cr. 300, 101 Pac. 599; *State* v. *Delancey*, 76 N. J. L. 462, 69 Atl. 958. Such a rule is necessary, they urge, to enable the accused to

prepare his defense and to preserve for him the plea of double jeopardy upon a second prosecution. Other courts, including New York, are satisfied, in the liquor cases, with an indictment in general terms. *People* v. *Pulhamus*, 8 App. Div. 133, 40 N. Y. Supp. 491; *State* v. *Duff*, 81 W. Va. 407, 94 S. E. 498. See JOYCE ON INTOXICATING LIQUORS, § 643. Because of the nature of the crime, the latter seems the preferable view. In the principal case, the court decided that the crime was not continuous and, further, refused to follow the precedent of the liquor cases. Even under this questionable interpretation, the prisoner's interests could be adequately secured by a bill of particulars in jurisdictions where such is allowed. *State* v. *Duff*, *supra*.

JOINT ADVENTURES — FIDUCIARY RELATION BETWEEN CO-ADVENTURERS — DUTY TO DIVIDE SECRET PROFITS. — The plaintiff and the defendant were joint adventurers in an enterprise to secure credit for an oil company. The defendant ostensibly withdrew from the undertaking, and the oil company induced the plaintiff to release it from its agreement by representing that the defendant had definitely dropped out of the negotiations. Immediately after, the defendant entered into a new agreement with the oil company on the same terms as originally, but with the plaintiff eliminated. The plaintiff seeks an account of profits made under the second contract, and a division according to the terms of the joint adventure. *Held*, that the relief be granted. *Brown* v. *Leach*, 178 N. Y. Supp. 319 (App. Div.).

For a discussion of this case, see NOTES, p. 852, *supra*.

LIENS — PRIORITY OF COMMON-LAW LIEN OVER CONDITIONAL VENDOR'S LIEN. — An automobile was leased monthly by the plaintiff to X and the agreement between the parties contained a provision by which X was permitted at any time to purchase the automobile outright. X while in possession delivered the automobile to the defendant for repairs, which were performed by the latter. The defendant claimed the right to retain a lien on the automobile for value of his repairs. *Held*, that no lien attached. *De Witt* v. *Gardner*, 76 Leg. Int. 824 (Pa.).

Subject to exceptions made in favor of innkeepers and carriers, no common-law lien attaches to chattels delivered without the authority of the owner. *Small* v. *Robinson*, 69 Me. 425; *Robins* v. *Gray*, [1895] 2 Q. B. 501. In conformance with this rule, it has been held generally that no lien can be acquired by an artisan as against the mortgagee or conditional seller of a chattel where repairs have been made at the request of the mortgagor or conditional buyer. *Sargent* v. *Usher*, 55 N. H. 287; *Storms* v. *Smith*, 137 Mass. 201; *Baumann Co.* v. *Roth*, 67 Misc. 458, 123 N. Y. Supp. 191. Considerable authority, however, holds that where the continued use of the chattel contemplates repairs, as in the principal case, the common-law lien prevails. *Keene* v. *Thomas*, [1905] 1 K. B. 130; *Watts* v. *Sweeney*, 127 Ind. 116, 26 N. E. 680; *Hammond* v. *Danielson*, 126 Mass. 294. It is argued that in such cases the mortgagee impliedly authorizes the making of repairs and thereby voluntarily subjects the property to the acquisition of a lien. Again, the improvements benefit not only the mortgagor but also the mortgagee by preserving his security, and in justice the lien should take priority. Several jurisdictions, however, refuse to adopt this reasoning and make no exception of these cases to the general rule. *Baughman Auto. Co.* v. *Emanuel*, 137 Ga. 354, 73 S. E. 511; *Small* v. *Robinson*, *supra*; *Denison* v. *Shuler*, 47 Mich. 598, 111 N. W. 402. The latter cases, it seems, represent the better view. The authority that the courts above imply in these cases is clearly contrary to the understanding of the parties — the mortgagee never consents that his security shall be impaired in the absence of express agreement. Furthermore, the recording of the mortgage or the